

### **REMARKS/ARGUMENTS**

Applicants respectfully request reconsideration of this application. Claims 1-20 remain in the application, all of which stand rejected.

The specification and claim 19 have been amended to add viscosity units to a viscosity reading. It is believed that these units would be readily understood by one of ordinary skill in the art, and that the addition of these units does not introduce new matter.

**Claims 1-20 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.**

Claims 1-20 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner states that, "[c]laims 1, 9, 12-15, and 18 cite the limitation of "thickfilm" dielectric. "Thickfilm" is a relative term which renders the claims vague and indefinite, . . ."

The Modern Dictionary of Electronics (7<sup>th</sup> ed. by Rudolf F. Graf) defines "thickfilm" as, "a layer of resistive, dielectric, or conductive paste that is deposited on a substrate by screen printing, then fired at an elevated temperature to drive off the binder and sinter the solids." Conversely, "thinfilm" is defined as, "a film of conductive or insulating material, usually deposited by sputtering or evaporation, that may be made in a pattern to form electronic insulation between successive layers of components."

Although thickfilms are generally thicker than thinfilms, this is not always the case, and some thickfilms are actually thinner than thinfilms. As demonstrated by the above definitions, the terms "thickfilm" and "thinfilm" are generally used to refer to types of processes, rather than precise thicknesses of the films that result from each process. Applicants therefore assert that the term "thickfilm", as used in their claims,

is a commonly understood industry term having a sufficiently clear and definite meaning. Applicants' specification, at paragraphs 19-21, provides further examples of what Applicants mean when they refer to a thickfilm.

Additionally, the Examiner states, "[c]laims 9-10 and 18-19 contain the trademark/trade name KQ dielectric and KQ CL-90-7858." Specifically, the Examiner cites *Ex parte Simpson* and states that, "the claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product."

Pursuant to M.P.E.P. § 608.01(v):

Names used in trade are permissible in patent applications if: (A) Their meanings are established by an accompanying definition which is sufficiently precise and definite to be made a part of a claim, or (B) In this country, their meanings are well-known and satisfactorily defined in the literature. See M.P.E.P. § 608.01(v) (8<sup>th</sup> Ed. Rev. 2003).

The limitations "KQ dielectric" and "KQ CL-90-7858" are believed to meet this requirement. As published on Heraeus Cermallo's website, and in published papers, KQ dielectrics are glass dielectrics having a very low loss tangent (around  $10^{-4}$ ) and dielectric constant (around 3.9). Defining a dielectric as KQ CL-90-7858 is even more definite, as this is not merely a "trademark", but rather an identifier of a specific product having a specific composition. The specification for KQ CL-90-7858 is relied on in the industry, and is not subject to change.

In the case of *Ex parte Simpson*, 218 USPQ 1020 (1982), the court upheld the Examiner's claim rejections pursuant to 35 U.S.C. § 112, second paragraph, where the claims contained the indefinite trademark "Hypalon." In that case the court stated:

"The claim scope is uncertain as regards the material which forms the "Hypalon" membrane. On the one hand, the claim language may be very narrowly construed to a particular chlorosulphonated ethylene having a specific group of additives employed by the owner of the "Hypalon" trademark to produce the desired

properties, or on the other hand the claim language might be asserted by appellants, as it was in the unentered amendment filed July 27, 1978, to broadly encompass every *synthetic resin*."

The *Ex Parte Simpson* case was a rather unique case involving very vague claim language which was made even more confusing by 1) Applicants' use of Hypalon as a noun, and 2) Applicants' attempt to argue that Hypalon encompassed a broader range of materials than indicated by Hypalon's manufacturer. Conversely, Applicants' claims 9-10 and 18-19 use the trade names "KQ dielectric" and "KQ CL-90-7858" in a proper manner, and it is clear what range of materials (or material) is encompassed by each of these terms.

The unique nature of the *Ex Parte Simpson* case is readily apparent after reviewing *Ex Parte Jerry Kitten*, WL 33134953 (1999, unpublished opinion), wherein the Board of Patent Appeals declined to follow its holding in *Ex Parte Simpson*, reversing the Examiner's rejections and finding that the use of trademarks did **not** render claims unclear or confusing. *Ex Parte Jerry Kitten* found:

[b]ased on these product sheets and because claim 13 further limits the fertilizer used in claim 1 to a fertilizer prepared from these well-identified proprietary products, we do not find the use of the trademarks renders claim 13 unclear or confusing. Compare, *Ex Parte Simpson*, 218 USPQ 1020-23 (Pat. & Tdmk. Off. Bd. App. 1982). *Ex Parte Jerry Kitten*, 1999 WL 33134953 (Bd. Pat. App. & Interf.)

Similarly, Applicants' claims 9-10 and 18-19 further limit Applicants' claims 1 and 17, respectively. Because Applicants' claim 9-10 and 18-19 are even further limited by the well identified limitations of claims 1 and 17, respectively, claim 9-10 and 18-19 are even more definite and precise.

### **Claims 13 and 19**

The Examiner states that claims 13 and 19, “. . . do not provide any viscosity units, which renders the claims vague and indefinite.” It is believed that one of ordinary skill in the art would recognize that the undisclosed units would be Poise. Applicants' specification has therefore been amended to add these units.

### **Claim 14**

The Examiner states uncertainty regarding a limitation of claim 14, specifically, the stainless steel screen having “.8 mil emulsion.” An “emulsion” is a suspension of fine particles in a viscous medium. It is relatively common in the industry to refer to a screen's “emulsion”, which merely means that the screen can pass particles of a given size. It is believed that referring to a screen's “emulsion” is a common practice in the industry.


### **Allowable Subject Matter**

Although the Examiner has indicated that claims 1-20 would be allowable if rewritten or amended to overcome the above rejections under 35 U.S.C. 112, second paragraph, it is believed that Applicants' Amendment and Remarks will persuade the Examiner to withdraw her rejections.

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Response dated June 30, 2004  
Reply to Office Action of March 30, 2004

Given the above Amendment and Remarks, Applicants respectfully request the timely issuance of a Notice of Allowance.

Respectfully submitted,  
DAHL & OSTERLOTH, L.L.P.

By:   
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Gregory W. Osterloth  
Reg. No. 36,232  
Tel: (303) 291-3200